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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,013	11/16/2001	Shui-on Leung	18733/1082	7681
22428	7590	09/03/2004	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			BLANCHARD, DAVID J	
			ART UNIT	PAPER NUMBER
			1642	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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09/988,013

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Shui-on Leung

18733/1082

EXAMINER

David J. Blanchard

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20040831

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Commissioner for Patents

1. The response filed 8/20/2004, is not fully responsive to the Office Action mailed 2/20/2004. Newly submitted claims 28-32 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The invention of previously pending claims 25-27 is drawn to an LL2 humanized antibody, classified in class 530, subclass 387.3. Newly added claims 28-32 are drawn to a method of making a humanized antibody, classified in class 435, subclass 328.

The inventions are distinct, each from the other because of the following reasons.

Inventions of newly added claims 28-32 and previously pending claims 25-27 are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the humanized LL2 antibody can be made by framework exchange or by replacement of exposed residues, or resurfacing in addition to the materially different process of newly added claims 28-32. Further, a search for the invention of newly added claims 28-32 would not be coextensive because a search indicating the process (i.e., method of making a humanized antibody) is novel or unobvious would not extend to a holding that the product itself is novel or unobvious; similarly, a search indicating that the product (i.e., LL2 humanized antibody of previously pending claims 25-27) is known or would have been obvious would not extend to a holding that the process is known or would have been obvious. Therefore, these inventions are distinct for the reasons given above and as shown by their different classification. Applicant is required to restrict the claims to the invention previously claimed (claims 25-27; LL2 humanized antibody) if the amendment is entered. See MPEP 37 CFR 1.145.

Since applicant has received an action on the merits for the originally presented invention drawn to the product (claims 25-27; LL2 humanized antibody), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 28-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Blanchard whose telephone number is (571) 272-0827. The examiner can normally be reached at Monday through Friday from 8:00 AM to 6:00 PM, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at (571) 272-0787. The official fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Respectfully,
David J. Blanchard
Art Unit 1642
(571) 272-0827

LARRY R. HELMS, PH.D.
PRIMARY EXAMINER

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